

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20216
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On March 22, 2007, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax, penalty, and interest for the taxable years 2001 through 2005 in the total amount of \$19,930.

On May 24, 2007, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather wanted to submit income tax returns for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Commission received an informational return that showed the taxpayer received income from an Idaho source in 2002. The Tax Discovery Bureau researched the Tax Commission's records and found that the taxpayer had not filed Idaho individual income tax returns for the tax years 2001 through 2005. The Bureau sent the taxpayer a letter asking about his requirement to file Idaho income tax returns. The taxpayer did not respond to the Bureau's letter. [Redacted] The Bureau prepared returns for the taxpayer based upon the information available to the Tax Commission and sent him a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. He stated he had expenses that offset the income the Bureau showed as taxable income. He stated he would file actual income tax returns with the expenses included. The Bureau allowed the taxpayer additional time to provide

the needed income tax returns; however, the taxpayer failed to provide any. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter discussing the methods available for redetermining a Notice of Deficiency Determination. The taxpayer failed to respond. The Tax Commission sent a follow-up letter and contacted the taxpayer's representative by telephone. The representative stated he thought the taxpayer had provided him with all the information needed to prepare the needed returns. He said he would begin working on them and send them to the Tax Commission as soon as they were completed.

Several months later, after numerous telephone calls and a couple of letters, the Tax Commission has yet to receive a single income tax return from the taxpayer. A final letter was sent to the taxpayer giving him a final date for providing his income tax returns. That date has since passed, and the Tax Commission has received no returns. Therefore, the Tax Commission hereby decides the matter based upon the information available.

The taxpayer has been a resident of Idaho since 1948 (Idaho Fish and Game licenses). The taxpayer received income during the years 2001 through 2005 (informational returns and federal information). The taxpayer did not argue that he was not required to file Idaho individual income tax returns. The taxpayer stated he would submit returns for the Tax Commission to consider.

It is clear from the information available that the taxpayer met the filing requirements of Idaho Code section 63-3030. Therefore, the Tax Commission agrees with the Bureau and finds that the taxpayer was required to file Idaho income tax returns for 2001 through 2005.

The taxpayer stated he would provide income tax returns for 2001 through 2005. Those returns have not been provided. In Idaho, a State Tax Commission deficiency determination is

presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). The taxpayer did not meet his burden. The taxpayer stated he had expenses that were not reflected in the Bureau's tax computation; yet he has failed to produce any documents or evidence substantiating his expenses. If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S.Ct. 413 (1931). Since the taxpayer has failed to meet his burden of substantiating deductible expenses or showing error in the deficiency determination, the Tax Commission hereby upholds the Bureau's deficiency determination.

The Bureau added interest and penalty to the taxpayer's tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated March 22, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$6,423	\$1,606	\$2,509	\$10,538
2002	3,048	762	995	4,805
2003	1,351	338	370	2,059
2004	858	215	183	1,256
2005	1,697	424	261	<u>2,382</u>
			TOTAL DUE	<u>\$21,040</u>

Interest is computed to July 31, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.  
  
\_\_\_\_\_